REMARKS

On March 16, 2009, an Examiner's Interview was conducted in which the assertion on page 6 of the final Office Action that the claims do not require compounds induce MPT in proliferating cells and not non-proliferating cells was discussed. The Examiner explains that he construed the claims to require only testing a compound with proliferating cells. Possible amendments were discussed but no agreement was reached.

The applicants maintain that the previously pending claims required a compound selectively induce MPT in proliferating compared to non-proliferating and growth quiescent cells. Nevertheless, in an effort to further clarify the claimed method, the applicants have amended claims 1 and 2 to recite that a compound(s) are tested against both a proliferating cell/cell extract and non-proliferating/growth quiescent cell/cell extract for comparison purposes. The applicants submit that the scope of the claims remains unchanged by these amendments.

Rejection of Claims 1-4, 9-19, 23, 27, and 28 under 35 U.S.C. 103(a)

The Office maintained the rejection of claims 1-4, 9-19, 23, 27, and 28 as obvious over the combination of Constantini (*Oncogene* **2000**, *19*, 307), Hogg (WO 01/21628) and Sawada (US Pat 5,270,196). Applicants respectfully traverse for the reasons of record has explained more fully below.

The applicants previously argued that the results of the presently claimed method could not have been predictable nor would one of ordinary skill in the art have a reasonable expectation of success at the time the present invention was made because it was unknown at the time that MPT could be selectively induced in proliferating cells compared to non-proliferating or growth quiescent cells. In response, the Office asserted that the claims do not require a compound induce MPT in proliferating cells and not non-proliferating cells. The applicants respectfully traverse, but, as noted above, have amended claims 1 and 2 to clarify that a compound(s) is tested against both proliferating and non-proliferating or growth quiescent cells before determining whether the compound binds ANT and selectively induces MPT in proliferating cells compared to non-proliferating or growth quiescent cells. Accordingly, the applicants reiterate their position that the success of the presently claimed methods was not predictable at the time of the present invention and, therefore, the presently claimed methods are nonobvious.

In view of the foregoing, the applicants respectfully request reconsideration and withdrawal of this rejeciton.

Rejection of Claim 5 under 35 U.S.C. 103(a)

The Office maintained in the rejection of claim 5 as obvious over the combination of Constantini (*Oncogene* **2000**, *19*, 307), Hogg (WO 01/21628), Sawada (US Pat 5,270,196), and Cai (*Biochim. Biophys. Acta* **1998**, *1366*, 139). For the reasons of record, Applicants respectfully traverse.

Cai does not compensate for the deficiencies of Constantini, Hogg, and Sawada, noted above. That is, Cai also provides no teaching or suggestion that proliferative and non-proliferative cells differ with respect to ANT-induced MPT. Cai merely provides a disussion of a possible interconnection between generation of superoxide and cyt c release. Accordingly, the combination of Cai with Constantini, Hogg, and Sawada fails to provide the ordinary artisan with sufficient teachings from which to derive a reasonable expectation of success of the claimed methods. Therefore, claim 5 is nonobvious, and Applicants respectfully request reconsideration and withdrawal of the present rejection.

Conclusion

Reconsideration of this application is respectfully requested and a favorable determination is earnestly solicited. If it is believed that a teleconference will advance prosecution, the examiner is encouraged to contact the undersigned as indicated below.

Respectfully submitted,

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